

EXECUTIVE
SUMMARY



To: Patti McLauchlin, City Manager

From: Scarlet Hammons, AICP CTP, Planning Consultant

Through: Katie P. Halloran, Planning Director

Meeting Date: July 22, 2022

RE: **Major Modification to a Major Development Plan and Landscape Waiver – 541 White Street (RE# 00006730-000200)** – A request for approval of a Major Modification to a Major Development Plan and Landscape Waiver to construct 48 affordable workforce housing units in the Historic Special Medium Density Residential (HSMDR) zoning district pursuant to Section 108-91 and Subdivision III-Historic Special Medium Density Residential District of the City of Key West Land Development Regulations.

Background:

The subject property is bound by Palm Avenue, Eaton Street, White Street, Eisenhower Drive and Angela Street within the HSMDR Zoning District. It consists of one 24 acre parcel under single ownership. The property has historically been utilized as army barracks dating as far back as the mid nineteenth century and redeveloped in the early 1990's to 160 Navy housing units. The property also housed a 10,000 square foot bank building occupied by Keys Federal Credit Union that was demolished in 2013. The site of the bank building is now proposed to be redeveloped to include some new residential units and an open green area for recreational space.

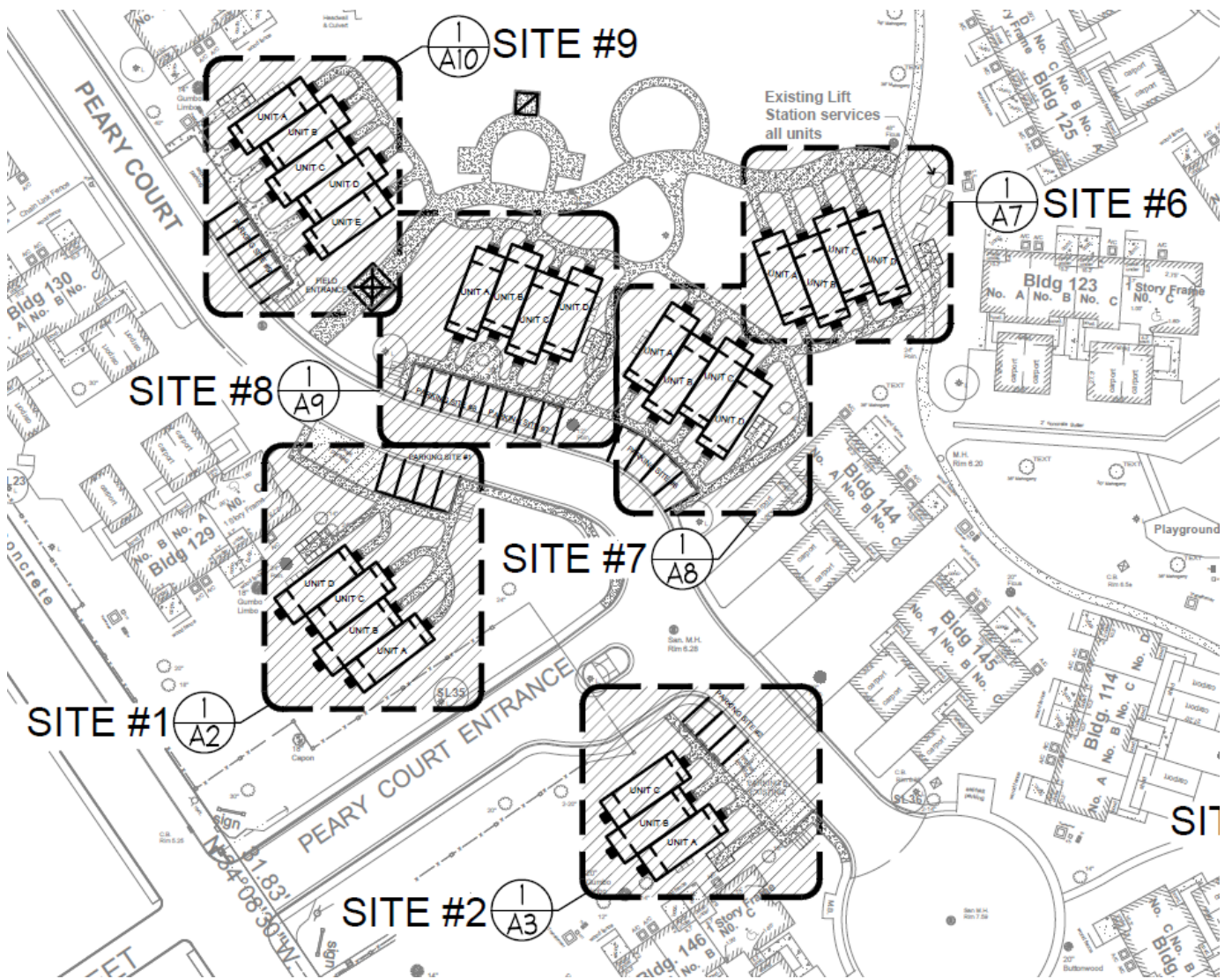
In 2012 the Navy sold the property to a non-governmental entity thus making it subject to local zoning control. The City Commission adopted Ordinance 12-33 in September 2012 which established the HSMDR zoning district for Peary Court as well as set aside 48 affordable building permit allocation (BPAS) units by recommendation of the State Department of Economic Opportunity to satisfy the 30% affordable housing requirements. The total allowed maximum density is 208 units. The HSMDR zoning also requires that any major development plan be accompanied by a development agreement. Thus, both requests are put forth as part of this application.

Presently, the property is partially governed by a development agreement approved by the City for the former owner and has a site plan for construction of the 48 BPAS units involving new structures and revisions to the landscaping and drainage systems. Based upon zoning, the former owner received approval of the development agreement for adding the 48 units, along with the anticipation that the remaining original 160 units would be converted to market rate housing.



Request:

The request from the current owner, Peary Court Apartments LLC is to amend the development agreement and to gain approval for a Major Modification to a Major Development Plan to both construct new buildings on the site and make interior modifications to convert some existing two-bedroom units to one-bedrooms, thus gaining a total of 48 additional units. If approved the development would result in a total of 208 units on the parcel. The proposal is to construct 33 units throughout the site, while preserving the main green central lawn area for open space recreation. The proposal would also include the conversion of 15 of the existing two-bedroom units on the site to create 30 one-bedroom units.



Major Development Review Process:

Development Review Committee:	December 16, 2021
Planning Board Meeting:	February 17, 2022
HARC Commission Meeting:	March 22, 2022
Tree Commission	April 11, 2022
City Commission:	June 7, 2022
Local Appeal Period:	30 Days
Planning renders to DEO for review:	Up to 45 days

Planning Staff Analysis:

Major Development Plan Review Criteria (Section 108-91.A.2):

The Planning Board, as required by Section 108 of the City Code reviewed the request for compliance with the Land Development Regulations and the Comprehensive Plan as detailed in the attached Planning Board staff report. The proposed Major Modification to the Major Development Plan were reviewed before the Planning Board on February 17, 2022. The Planning Board recommended approval with conditions through Resolution 2022-009, attached.

The City of Key West Tree Commission approved the Final Landscape Plan on April 11, 2022. The Urban Forestry Manager completed the Section 108 review and found that the overall plan is in compliance, and can be approved with conditions.

The proposal is to convert 15 of the existing two-bedroom units on the site to create 30 one-bedroom units, for which the applicant states there is a demand. The remaining 33 units will be newly constructed two-bedrooms in open areas and recreational areas throughout the site, while preserving the main green central lawn area for open space recreation. The new units will be in the form of duplex, triplex, and quadraplex buildings in nine locations or “pods” on the site. The size of the new two-bedroom units is 1,065 sq. ft., while the converted one-bedrooms will be 544 sq. ft. downstairs and 623 sq. ft. upstairs. All units will remain rentals.

While the applicant does not propose a specific phasing plan, nor has identified which units will be converted, it should be noted that the majority of the existing units, 148 of 160, are two-bedrooms. The applicant has stated that the conversions will occur when a unit becomes vacant, and anticipates that a period of five years is sufficient time for all conversions to occur. The amended development agreement proposes a five year time frame, however at this time, the Comprehensive Plan does not specify that unbuilt BPAS allocations at Peary Court will surrender back to the City if the conversions do not materialize.

The proposed building site locations were chosen to limit their exposure to the adjacent neighborhoods. Buildings 5 through 9 are located well within the property and have limited exposure to view from the adjacent streets. Buildings 1 and 2 are moved away from White Street by 80 feet which limits the impact of these buildings on the surrounding neighborhood. Building 3 exceeds the setback by 25 feet and Building 4 exceeds the setback by over 20 feet.

Historic Key West Post Cemetery Buffer and Cistern Preservation

After this project was approved by the Planning Board, the City received a document entitled, “Archeological and Historical Investigations for Proposed U.S. Navy Peary Court Housing Project”, dated March 6, 1991, prepared by the U.S. Army Corps of Engineers Mobile District, and the attached “Historic Preservation Plan” through a citizen comment. There is a reference in the aforementioned report to a Peary Court Memorandum of Agreement, which the City does not possess. The Army Corps document describes archeological and historic investigations that were required by the National Historic Preservation Act of 1966, given the proposed housing construction by the Navy at the Peary Court property at the time.

The U.S. Army Corps document states that 463 bodies were exhumed from the historic Key West Post Cemetery (abutting the 541 White Street property on the southwest corner) in 1927 and transferred to a military cemetery at Fort Barrancas, Pensacola, Florida. Archeological excavations began in 1990 and included four trenches to identify grave pits and delineate the historic cemetery. Post holes associated with an original picket fence were located by

the Corps and were used to establish a buffer zone to protect human remains that may have been left behind at the site, along the north and northeast boundary of the historic cemetery. Human remains were found in the cemetery itself and also possibly still exist beneath the storage structure on the southeast side of the cemetery and beneath the intersection of Angela and Gonzalez Streets, where the Army Corps documents states that future ground disturbing street work must be pursued with caution. The Historic Preservation Plan stipulates certain fencing and maintenance requirements for the historic cemetery and buffer zones, “. . . to insure that potential isolated burials would be avoided by construction.” It states, “The required cemetery buffer zone lies on the north and northeast sides of the cemetery and consists of a 5’ set back from the original fence post holes to a new wrought iron fence, a 25’ set back from the original fence post holes to new dwellings, and a 50’ setback from the original fence post holes to any storm water runoff ponds.”

The applicant met with City staff on Thursday, June 2, 2022, to discuss potential approaches to avoid cemetery impacts at the site. The area in question is building site #3, which is located closer to the Peary Court Cemetery, on the southwest corner of the lot. The applicant hired archaeologist Diane Silvia Ph. D. as their archaeologist. After several meetings between city’s staff, archaeologist Silvia, and architect Burkee, architect of record, a decision was made that an archaeological assessment of the 25 feet buffer zone mentioned in the “Archeological and Historical Investigations for Proposed U.S. Navy Peary Court Housing Project” document should be performed. In addition, it was agreed that site plans of building site #3 be sent to the State Historic Preservation Office (SHPO), specifically their Archeological Division as well as the U.S. Army Corps of Engineers (USACE) Mobile District, for their review and recommendations. Archaeologist Silva’s resume, archaeological plan, and survey methodology submitted to the SHPO and USACE, are included in this report. The response from the USACE was the following:

“This looks like an established, developed parcel that does not contain federally jurisdictional wetlands or navigable waters, so no review is required from our office. You should contact the State Historic Preservation Office (SHPO) if you know that there are historic properties on site.”

Mrs. Silvia received a verbal response from the SHPO’s Archaeological Division stating that no permits for the archaeological excavation are required for the site.

On Friday July 15, 2022, archaeological excavations began and concluded on the site and it is expected that a final report be rendered by the archaeologist to the SHPO and the city. Excavations are negative for human burials and only a few artifacts were found such as a small unidentified metal object, a nail, one street brick, a piece of broken concrete, approximately 16” of a deteriorated wooden post (without any context), an old vitrified sewer line still on situ and a small piece of glass. It is important to state that the applicant has reached out to the citizen that had concerns about possible burials in the site. It is staff’s opinion that no further archaeological supervision is required during construction as the areas that will be excavated for foundations and new trees were already surveyed through archaeological trenches.

Workforce Housing Monitoring and Compliance

On February 17, 2022, the Planning Department requested information from the Housing Authority regarding property owner compliance with the requirements of the deed restriction associated with 541 White Street (Declaration of Affordable Rental Housing Restrictions, entered into on July 18, 2016).

However, the City’s Legal Department advised staff last week that the City Commission cannot contemplate matters related to the applicant’s compliance status with the property’s Deed Restriction with respect to current units when evaluating the applicant’s proposed Major Development Plan and requested modification to the Development Agreement with respect to future units. Additionally, the City is not a party to the current

Deed Restriction which identifies the Housing Authority and Land Authority as the parties responsible for monitoring affordable housing compliance and enforcement for all housing at Peary Court.

Recommendation:

On February 17, 2022, the Planning Board, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommended that the request for a Major Modification to a Major Development Plan be **Approved** with conditions 1-12 below. The Planning Department also received a letter of objection including a U.S. Army Corps of Engineers archeological report on the sensitivity of the property in relation to the adjacent historic Key West Post Cemetery. **Given this additional information the City Commission may consider the condition below:**

- A report containing the findings and recommendations of archaeologist Silvia shall be submitted to the city and the State Historic Preservation Office, Archaeological Division, for their review and recommendations.

General conditions:

1. The proposed construction shall be in substantial compliance with the site plan dated 1-6-2022 Sheet A1 and associated plans signed, sealed by Bender & Associates Architects p.a. Construction drawings for permitting shall be dated as approved herein, with any proposed revisions (modifications) clearly noted and dated. Development plan modifications that do not rise to the status of minor or major plan modifications may be approved by the city planner as per Section 108-91(c)(1). All modifications shall be submitted for review and approval to the Planning Department prior to building permit application. Minor and major development plan modifications are addressed as per Section 108(C.).
2. All new 48 residential units shall comply with the recorded affordable housing deed restriction for 541 White Street: Declaration of Affordable Rental Housing Restrictions, dated July 18, 2016.
3. During all phases of construction, temporary fencing and erosion barriers shall be installed and maintained. All adjacent City streets and sidewalks shall be kept clean and clear of construction debris.
4. Once a year, all listed invasive plant species (Australian Pine-Casuarina equisetifolia, Brazilian Pepper-Schinus terebinthifolia, Lead Tree-Leucaena leucocephala, and Melaleuca- Melaleuca quinquenervia) shall be removed from the site. Stumps should be treated with an appropriate herbicide type treatment to prevent regrowth.
5. A transplantation plan must be submitted at the time of issuance of the tree permits.
6. The City has identified stormwater impacts/flooding at the White and Eaton Street (Palm Avenue) intersection that will likely intensify due to climate impacts over time. The City requests that the applicant negotiate in good faith, at a future date, to consider a potential easement and/or public private partnership for stormwater management in the area of this intersection to reduce flood risk at the adjacent White Street/Eaton Street/Palm Ave intersection.
7. The Major Development Plan approval shall be accompanied by the associated Development Agreement per Section 122-611(e).

Conditions prior to issuance of a Certificate of Occupancy:

8. All sidewalks and walkways shall have a minimum 36-inch width and clearance from objects and landscaping. Five feet is preferred wherever possible. Flexi-pave shall be utilized in all instances in which sidewalks or parking area is in close proximity to trees. Pavement and sidewalk installation and repaving shall occur with oversight from the Urban Forester.
9. Removal of all invasive exotic plant species from the entire site: Australian Pine-Casuarina equisetifolia, Brazilian Pepper-Schinus terebinthifolia, Lead Tree-Leucaena leucocephala, and Melaleuca- Melaleuca quinquenervia.
10. Landscape inspection to ensure compliance with the approved Final Landscape Plan is required prior to issuance of any CO associated with the MDP. There is no phasing associated with the Final Landscape Plan.
11. Approval of a Public Art Plan shall be obtained from the AIPP Board, pursuant to City Code Section 2-487, and may include payment of an in-lieu fee.
12. The existing shared bicycle route entering the property from Palm Avenue shall be demarcated with "share the road" signage and street markings and shall connect as depicted on the approved Landscape Plan sheet CE.00. Pavement markings and colors will be approved by the City. The new and improved off-road sections providing two internal connections between cul-de-sacs, shall be constructed at 5 to 6 feet wide and constructed from a dust-free material, either asphalt, concrete or pavers.